

MAR 03 2009

**Board of Vocational Nursing
and Psychiatric Technicians**

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of the State of California
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8 Attorneys for Complainant

9 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Petition to Revoke Probation
12 Against:

Case No. VN-2003-1923

13 SHERRILL DENINE DAVIS
1815 Sweetwater Road #124
14 Spring Valley, CA 91977

**PETITION TO REVOKE
PROBATION**

15 Vocational Nurse License No. VN 176311

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Petition
21 to Revoke Probation solely in her official capacity as the Executive Officer of the Board of
22 Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

23 2. On or about April 11, 1996, the Board of Vocational Nursing and
24 Psychiatric Technicians issued Vocational Nurse License Number VN 176311 to Sherrill Denine
25 Davis (Respondent). The Vocational Nurse License was in effect at all times relevant to the
26 charges brought herein and will expire on September 30, 2009, unless renewed.

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1 **LICENSE HISTORY**

2 3. In a prior disciplinary action entitled "*In the Matter of the Accusation*
3 *Against Sherrill Denine Davis*," Case No. VN-2003-1923, the Board of Vocational Nursing and
4 Psychiatric Technicians issued a decision, effective April 27, 2008, in which Respondent's
5 Vocational Nurse License was revoked. However, the revocation was stayed and Respondent's
6 license was placed on probation for a period of three (3) years with certain terms and conditions.
7 A copy of that decision is attached as Exhibit A and is incorporated by reference.

8 **JURISDICTION**

9 4. This Petition to Revoke Probation is brought before the Board of
10 Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs,
11 under the authority of the following laws. All section references are to the Business and
12 Professions Code unless otherwise indicated.

13 5. Section 2875 of the Business and Professions Code (Code) provides, in
14 pertinent part, that the Board may discipline the holder of a vocational nurse license for any
15 reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice
16 Act.

17 6. Section 118, subdivision (b) of the Code provides, in pertinent part, that
18 the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary
19 action during the period within which the license may be renewed, restored, reissued or
20 reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any
21 time within four years after the expiration.

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FIRST CAUSE TO REVOKE PROBATION

(Compliance With Probation Program and Quarterly Report Requirements)

7. At all times after the effective date of Respondent's probation, Condition 2 stated:

Respondent shall fully comply with terms and conditions of the probation established by the Board and shall cooperate with the representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Probation Program.

Respondent shall submit quarterly reports, under penalty of perjury, in a form required by the Board. The reports shall certify and document compliance with all the conditions of probation.

8. Respondent's probation is subject to revocation because she failed to submit the required Quarterly Written Reports for the periods July-September 2008 and October-December 2008, in violation of Probation Condition 2, referenced above.

SECOND CAUSE TO REVOKE PROBATION

(Chemical Dependency Support/Recovery Group)

9. At all times after the effective date of Respondent's probation, Condition 11 stated:

Within five (5) days of the effective date of the Decision, Respondent shall begin attendance at a chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse Support Group). Verified documentation of attendance shall be submitted by Respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation.

10. Respondent's probation is subject to revocation because she failed to submit proof of attendance at a chemical dependency support/recovery group meeting of no less than one (1) time per week, in violation of Probation Condition 11, referenced above. Respondent submitted verified attendance at five Narcotics Anonymous meetings in May and June 2008; no other proof of attendance beyond June 2008 has been provided by Respondent.

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1 **THIRD CAUSE TO REVOKE PROBATION**

2 **(Cost Recovery Requirement)**

3 11. At all times after the effective date of Respondent's probation, Condition
4 15 stated:

5 Respondent shall pay to the Board pursuant to Business and Professions
6 Code Section 125.3 the costs of investigation and enforcement in this matter in
7 the amount of \$5,500.00. Respondent shall be permitted to pay these costs in a
8 payment plan approved by the Board. This amount is required to be paid before
9 completion of probation. Failure to complete payment of cost recovery within
10 this time frame shall constitute a violation of probation which may subject
11 Respondent's license to outright revocation. The Board may conditionally renew
12 or reinstate, for a maximum of one year, the license of any respondent who
13 demonstrates financial hardship. Respondent shall enter into a formal agreement
14 with the Board to reimburse the unpaid costs within that one year period.

15 Except as provided above, the Board shall not renew or reinstate the
16 license of any Respondent who has failed to pay all the costs as directed in this
17 Decision.

18 12. Respondent's probation is subject to revocation because she failed to
19 reimburse the Board for its costs in violation of Probation Condition 15, referenced above.
20 Respondent agreed to make thirty-two (32) monthly payments of \$167.00 each and a final
21 payment of \$156.00 beginning July 2008. To date, the Board has not received any payments and
22 the balance remains \$5,500.00.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
4 Technicians issue a decision:

5 1. Revoking the probation that was granted by the Board of Vocational
6 Nursing and Psychiatric Technicians in Case No. VN-2003-1923 and imposing the disciplinary
7 order that was stayed thereby revoking Vocational Nurse License No. VN 176311 issued to
8 Sherrill Denine Davis;

9 2. Taking such other and further action as deemed necessary and proper.

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11 DATED: March 5, 2009.

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14 TERESA BELLO-JONES, J.D., M.S.N., R.N.
15 Executive Officer
16 Board of Vocational Nursing and Psychiatric Technicians
17 Department of Consumer Affairs
18 State of California
19 Complainant

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Exhibit A
Decision and Order
Case No. VN-2003-1923

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BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

Case No. VN-2003-1923

SHERRILL DAVIS
1815 Sweetwater Road, #124
Spring Valley, CA 91977

Vocational Nurse License No.
VN 176311


Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
Board of Vocational Nursing and Psychiatric Technicians as the Final Decision in the above entitled
matter.

This Decision shall become effective on April 27, 2008.

IT IS SO ORDERED this 28TH day of March, 2008.



John P. Vertido, L.V.N.
President

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS, State Bar No. 131767
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8 Attorneys for Complainant

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10 **BEFORE THE**
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

13 SHERRILL DAVIS, A.K.A.
14 SHERRILL DENINE DAVIS
1815 Sweetwater Road, #124
15 Spring Valley, CA 91977
16 Vocational Nurse No. VN 176311

17 Respondent.

Case No. VN-2003-1923

OAH No. L-2007090282

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Teresa Bello-Jones, J.D., M.S.N., R.N., Complainant, is the Executive
22 Officer of the Board of Vocational Nursing and Psychiatric Technicians. She brought this action
23 solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney
24 General of the State of California, by Sherry L. Ledakis, Deputy Attorney General.

25 2. Respondent Sherrill Davis, a.k.a. Sherrill Denine Davis, Respondent, is
26 represented in this proceeding by attorney Edgardo Gonzales, whose address is Law Offices of
27 Edgardo Gonzales, 1300 Clay Street, Ste. 600, Oakland, CA 94612.

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1 3. On or about April 11, 1996, the Board of Vocational Nursing and
2 Psychiatric Technicians issued Vocational Nurse License No. VN 176311 to Respondent, Sherrill
3 Davis. The license was in full force and effect at all times relevant to the charges brought in
4 Accusation No. VN-2003-1923 and will expire on September 30, 2009, unless renewed.

5 JURISDICTION

6 4. Accusation No. VN-2003-1923 was filed before the Board of Vocational
7 Nursing and Psychiatric Technicians, and is currently pending against Respondent. The
8 Accusation and all other statutorily required documents were properly served on Respondent on
9 July 25, 2007. Respondent timely filed her Notice of Defense contesting the Accusation. A copy
10 of Accusation No. VN-2003-1923 is attached as exhibit A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and
13 understands the charges and allegations in Accusation No. VN-2003-1923. Respondent has also
14 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
15 Settlement and Disciplinary Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the
17 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
18 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
19 the right to present evidence and to testify on her own behalf; the right to the issuance of
20 subpoenas to compel the attendance of witnesses and the production of documents; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
24 each and every right set forth above.

25 CULPABILITY

26 8. Respondent admits the truth of each and every charge and allegation in
27 Accusation No. VN-2003-1923.

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1 9. Respondent agrees that her Vocational Nurse License is subject to
2 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 CONTINGENCY

5 10. The parties understand and agree that facsimile copies of this Stipulated
6 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
7 force and effect as the originals.

8 11. In consideration of the foregoing admissions and stipulations, the parties
9 agree that the Board may, without further notice or formal proceeding, issue and enter the
10 following Disciplinary Order:

11 DISCIPLINARY ORDER

12 IT IS HEREBY ORDERED that Vocational Nurse License No. VN 176311 issued
13 to Respondent Sherrill Davis, a.k.a. is revoked. However, the revocation is stayed and
14 Respondent is placed on probation for three (3) years on the following terms and conditions.

15 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws,
16 including all statutes and regulations governing the license. Respondent shall submit, in writing,
17 a full and detailed account of any and all violations of the law to the Board within five (5) days of
18 occurrence. To ensure compliance with this term, respondent shall submit two (2) completed
19 fingerprint cards and the applicable fingerprint processing fees to the Board within thirty (30)
20 days of the effective date of the decision, unless the Board determines that fingerprint cards were
21 already submitted by Respondent as part of her licensure application process effective July 1,
22 1996. Respondent shall also submit a recent 2" x 2" photograph of herself within thirty (30) days
23 of the effective date of the decision.

24 2. **Compliance With Probation Program And Quarterly Report**
25 **Requirements.** Respondent shall fully comply with the terms and conditions of the probation
26 established by the Board and shall cooperate with the representatives of the Board in its
27 monitoring and investigation of the Respondent's compliance with the Probation Program.

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Respondent shall submit quarterly reports, under penalty of perjury, in a form required by the Board. The reports shall certify and document compliance with all the conditions of probation.

3. Notification of Address And Telephone Number Change(s).

Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of her new address and any change in her work and/or home telephone numbers.

4. Notification of Residency or Practice Outside of State.

Respondent shall notify the Board, in writing, within five (5) days, if she leaves California to reside or practice in another state. Respondent shall notify the Board, in writing, within five (5) days, upon her return to California. The period of probation shall not run during the time Respondent is residing or practicing outside California.

5. Notification to Employer(s).

When currently employed or applying for employment in any capacity in any health care profession, Respondent shall notify her employer of the probationary status of her license. This notification to the Respondent's current health care employer shall occur no later than the effective date of the Decision. Respondent shall notify any prospective health care employer of her probationary status with the Board prior to accepting such employment. This notification shall be by providing the employer or prospective employer with a copy of the Board's Accusation and Disciplinary Decision.

The Health Care Profession includes, but is not limited to: Licensed Vocational Nurses, Psychiatric Technicians, Registered Nurses, Medical Assistants, Paramedics, Emergency Medical Technicians, Certified Nursing Assistants, Home Health Aides, and all other ancillary technical health care positions.

Respondent shall cause each health care employer to submit quarterly reports to the Board. The reports shall be on a form provided by the Board, shall include a performance evaluation and such other information as may be required by the Board.

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, if she is terminated from

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any nursing or health care related employment with a full explanation of the circumstances surrounding the termination.

6. **Interviews/meetings With Board Representative(s).** Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board, or its designated representatives.

7. **Employment Requirements And Limitations.** During probation, Respondent shall work in her licensed capacity in the State of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

While on probation, Respondent shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a Board approved continuing education course except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

8. **Supervision Requirements.** Respondent shall obtain prior approval from the Board, before commencing any employment, regarding the level of supervision provided to Respondent while employed as a licensed vocational nurse or psychiatric technician.

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technicians during the period of probation except as approved, in writing, by the Board.

9. **Completion of Educational Course(s).** Respondent, at her own expense, shall enroll and successfully complete a course(s) substantially related to the violation(s) no later than the end of the first year of probation; or Respondent shall be suspended from practice, until she has enrolled in and has successfully completed the specified coursework.

The coursework shall be in addition to that required for license renewal. The Board shall notify Respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of assigned coursework, Respondent

1 shall submit a written plan to comply with this requirement. The Board shall approve such plan
2 prior to enrollment in any course of study.

3 Upon successful completion of the course, Respondent shall cause the instructor
4 to furnish proof to the Board within thirty (30) days of course completion.

5 **10. Maintenance of Valid License.** Respondent shall, at all times while on
6 probation, maintain an active current license with the Board, including any period during which
7 suspension or probation is tolled.

8 Should respondent's license, by operation of law or otherwise, expire, upon
9 renewal or reinstatement respondent's license shall be subject to any and all terms of this
10 probation not previously satisfied.

11 **11. Chemical Dependency Support/recovery Groups.** Within five (5) days
12 of the effective date of the Decision, Respondent shall begin attendance at a chemical
13 dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse Support
14 Group). Verified documentation of attendance shall be submitted by Respondent with each
15 quarterly report. Respondent shall continue attendance in such a group for the duration of
16 probation.

17 **12. Abstain From Controlled Substances.** Respondent shall completely
18 abstain from the personal use or possession of controlled substances, as defined in the California
19 Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4021 and 4022 of
20 the Business and Professions Code, except when lawfully prescribed by a licensed practitioner
21 for a bona fide illness.

22 **13. Abstain From Use of Alcohol.** Respondent shall completely abstain from
23 the use of alcoholic beverages during the period of probation.

24 **14. Submit Biological Fluid Samples.** Respondent shall immediately submit
25 to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. There
26 will be no confidentiality in test results; positive test results will be immediately reported to the
27 Board and the Respondent's current employer.

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1 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
 2 Decision and Order of the Board of Vocational Nursing and Psychiatric Technicians.

3 DATED: 1/24/08

4
 5 
 6 SHERILL DAVIS, AKA.
 7 SHERILL DENINE DAVIS
 8 Respondent

9 I have read and fully discussed with Respondent Sherrill Davis, a.k.a. Sherrill
 10 Derrine Davis the terms and conditions and other matters contained in the above Stipulated
 11 Settlement and Disciplinary Order. I approve its form and content.

12 DATED: 1/24/08

13 
 14 EDGARDO GONZALES
 15 Attorney for Respondent

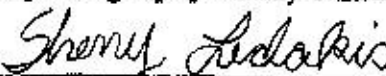
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
 18 submitted for consideration by the Board of Vocational Nursing and Psychiatric Technicians.

19 DATED: 2/4/08

20 EDMUND G. BROWN JR., Attorney General
 21 of the State of California

22 LINDA K. SCHNEIDER
 23 Supervising Deputy Attorney General

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 25 SHERY L. LIDAKIS
 26 Deputy Attorney General
 27 Attorneys for Complainant

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Exhibit A
Accusation No. VN-2003-1923

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of the State of California
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8 Attorneys for Complainant
9

10 **BEFORE THE**
BOARD OF VOCATIONAL NURSING
11 **AND PSYCHIATRIC TECHNICIANS**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. VN-2003-1923

14 SHERRILL DAVIS,
a.k.a. SHERRILL DENINE DAVIS
15 1815 Sweetwater Road, #124
16 Spring Valley, California 91977
Vocational Nurse License No. VN 176311

A C C U S A T I O N

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this
22 Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
23 Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

24 2. On or about April 11, 1996, the Board issued Vocational Nurse License
25 Number VN 176311 to Sherrill Davis, also known as Sherrill Denine Davis ("Respondent").
26 Respondent's vocational nurse license was in full force and effect at all times relevant to the
27 charges brought herein and will expire on September 30, 2007, unless renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

5. Code section 2878 states, in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct . . .

(i) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee . . .

6. Code section 2878.5 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(c) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified in subdivision (b).

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7. Code section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a -----," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

8. Health and Safety Code section 11173, subdivision (a), states, in pertinent part:

No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . .

COST RECOVERY

9. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CONTROLLED SUBSTANCES AND DANGEROUS DRUGS AT ISSUE

10. "Percocet," a brand of oxycodone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N).

11. "MS Contin," a trade name for morphine sulfate, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M).

12. "Ambien," a brand of zolpidem tartrate, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(32).

13. "Vicodin ES," a compound consisting of 7.5 mg of hydrocodone bitartrate, also known as dihydrocodeinone, and 750 mg of acetaminophen per tablet, is a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

1 14. "Restoril," a brand of temazepam, is a Schedule IV controlled substance as
2 designated by Health and Safety Code section 11057, subdivision (d)(29).

3 15. "Tylenol #3," is a dangerous drug within the meaning of Code section
4 4022 in that it is available by prescription only.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Diversion of Controlled Substances)**

7 16. Respondent is subject to disciplinary action pursuant to Code section
8 2878, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section
9 2878.5, subdivision (a), in that on or about March 29, 2004, while employed and on duty as a
10 licensed vocational nurse at Continental Rehabilitation Hospital of San Diego ("CRHSD")
11 located in San Diego, California, Respondent obtained the controlled substances, Percocet,
12 MS Contin, Ambien, Vicodin ES, and/or Restoril by fraud, deceit, misrepresentation, or
13 subterfuge in violation of Health and Safety Code section 11173, subdivision (a), as follows:

14 Respondent unlawfully obtained controlled substances by falsifying information on
15 the hospital's narcotic balance sheet, removed controlled substances from the locked narcotics
16 cart, failed to administer the medications to the patients or failed to chart the administration of
17 the medications in the patients' Medication Administration Records, and/or falsified the
18 controlled drug records to conceal her diversion of the controlled substances, as is more
19 particularly set forth in paragraph 17 below.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(False Entries in Hospital/Patient Records)**

22 17. Respondent is subject to disciplinary action pursuant to Code section
23 2878, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section
24 2878.5, subdivision (e), in that on or about March 29, 2004, while employed and on duty as a
25 licensed vocational nurse at CRHSD, Respondent falsified, or made grossly incorrect, grossly
26 inconsistent, or unintelligible entries in hospital, patient, or other records pertaining to the

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controlled substances Percocet, MS Contin, Ambien, Vicodin ES, and/or Restoril, and the dangerous drug Tylenol #3, as follows:

Patient 1:

a. At 1430 hours, Respondent signed out on the narcotic balance sheet two Percocet tablets for patient 1 but did not chart the administration of the Percocet in the patient's medication administration record ("MAR") until 1600 hours.

b. At 1800 hours, Respondent signed out on the narcotic balance sheet two Percocet tablets for patient 1, but failed to chart the administration of the Percocet in the patient's MAR or otherwise account for the disposition of the two Percocet tablets.

c. At 1800 hours, Respondent signed out on the narcotic balance sheet MS Contin 30 mg for patient 1 when, in fact, the physician's order called for the administration of 15 mg of the medication.¹⁷ Respondent documented in the balance sheet that she wasted the MS Contin as witnessed by a second nurse, but failed to indicate the quantity of the medication wasted. Further, Respondent charted the administration of MS Contin 30 mg in the patient's MAR at 1900 hours.

d. At approximately 2245 hours or thereafter, and following the shift change count, Respondent signed out on the narcotic balance sheet MS Contin 15 mg for patient 1, but documented on the balance sheet that the medication was withdrawn at 1800 hours. Further, Respondent charted the administration of the MS Contin 15 mg in the patient's MAR at 1900 hours.

e. At 2200 hours, Respondent signed out on the narcotic balance sheet Ambien 10 mg for patient 1, but failed to chart the administration of the Ambien in the patient's MAR or otherwise account for the disposition of the Ambien 10 mg.

f. Respondent charted on the nursing shift assessment sheet that patient 1's pain level was six on a scale of zero to ten, but documented in the nurses notes that the patient had "no discomfort".

1. On March 29, 2004, at 0800 hours, a physician's order was written decreasing the MS Contin 30 mg to 15 mg.

Patient 2:

g. At 1430 hours, Respondent signed out on the narcotic balance sheet one Vicodin ES tablet for patient 2, but failed to chart the administration of the Vicodin ES in the patient's MAR or otherwise account for the disposition of the one Vicodin ES tablet.

h. At 1800 hours, Respondent signed out on the narcotic balance sheet one Vicodin ES tablet for patient 2, but failed to chart the administration of the Vicodin ES in the patient's MAR or otherwise account for the disposition of the one Vicodin ES tablet.

i. At 2200 hours, Respondent signed out on the narcotic balance sheet Restoril 30 mg for patient 2, but charted in the patient's MAR that she administered the Restoril to the patient at 2100 hours.

j. Respondent charted on the nursing shift assessment sheet that patient 2's pain level was eight on a scale of zero to ten, but documented in the nurses notes that the patient had "no discomfort".

Patient 3:

k. At 1430 hours, Respondent signed out on the narcotic balance sheet one Tylenol #3 tablet for patient 3 when, in fact, there was no physician's order authorizing Tylenol #3 for the patient and the patient was not assigned to Respondent. Further, Respondent failed to chart the administration of the Tylenol #3 in the patient's MAR or otherwise account for the disposition of the one Tylenol #3 tablet. In addition, the nurse assigned to patient 3 documented in the nurse's notes that the patient had not complained of pain.

l. At 2200 hours, Respondent signed out on the narcotic balance sheet one Tylenol #3 tablet for patient 3 when, in fact, there was no physician's order authorizing Tylenol #3 for the patient and the patient was not assigned to Respondent. Further, Respondent failed to chart the administration of the Tylenol #3 in the patient's MAR or otherwise account for the disposition of the one Tylenol #3 tablet. In addition, the nurse assigned to patient 3 documented in the nurse's notes that the patient had not complained of pain.

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Patient 4:

m. At 1800 hours, Respondent signed out on the narcotic balance sheet one Tylenol #3 tablet for patient 4, documented in the balance sheet that she wasted the Tylenol #3 as witnessed by a second nurse, but failed to indicate the quantity of the medication wasted. Further, Respondent charted the administration of the one Tylenol #3 tablet in the patient's MAR at 1800 hours.

n. At 2200 hours, Respondent signed out on the narcotic balance sheet one Tylenol #3 tablet for patient 4, but failed to chart the administration of the Tylenol #3 in the patient's MAR or otherwise account for the disposition of the one Tylenol #3 tablet.

THIRD CAUSE FOR DISCIPLINE

(Dishonest Acts)

18. Respondent is subject to disciplinary action pursuant to Code section 2878, subdivision (j), in that on or about March 29, 2004, Respondent committed acts involving dishonesty while licensed as a vocational nurse, as set forth in paragraph 17 above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 176311, issued to Sherrill Davis, also known as Sherrill Denine Davis;

2. Ordering Sherrill Davis, also known as Sherrill Denine Davis, to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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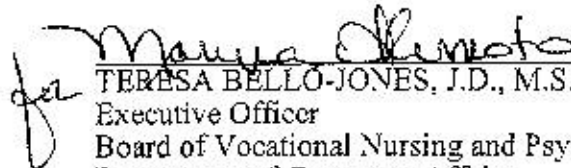
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3. Taking such other and further action as deemed necessary and proper.

DATED: July 25, 2007


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California

Complainant